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NOMINATION OF ROBERT P. BEDELL

HEARING

BEFORE THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

NINETY-NINTH CONGRESS

SECOND SESSION

ON

NOMINATION OF ROBERT P. BEDELL TO BE ADMINISTRATOR OF THE OFFICE OF FEDERAL PROCUREMENT POLICY

SEPTEMBER 23, 1986

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NOMINATION OF ROBERT P. BEDELL

TUESDAY, SEPTEMBER 23, 1986

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The committee met at 10:05 a.m. in room SD-342, Dirksen Senate Office Building, Hon. William S. Cohen, presiding.

Present: Senators Cohen, Durenberger, and Chiles.

OPENING STATEMENT OF SENATOR COHEN

Senator COHEN. The committee will come to order.

I am pleased to chair this hearing today on the nomination of Robert Bedell to be Administrator of the Office of Federal Procurement Policy, more commonly referred to as the OFPP.

Senator Chiles and I sponsored legislation in 1983 and virtually shed blood to reauthorize this small but critical office. We have eagerly awaited this nomination since, for nearly 2 years now, the OFPP has been without a Presidentially appointed Administrator needed to provide the leadership and direction for the Office to operate effectively.

Congress established the OFPP in 1974 to provide overall direction and coordination of Federal procurement policy and reform. As chairman of the Oversight Subcommittee, I have had the opportunity to work with the OFPP on a number of procurement reforms, including debarment and suspension, "hurry-up" spending, and competition in contracting.

The need for a strong OFPP has not diminished. If anything, the continued growth of the Federal procurement budget, totaling over $200 billion in fiscal 1985, has only enhanced the need for an effective office.

Mr. Bedell's qualifications and experience at OMB appear to make him an excellent candidate for the Administrator position. His task will not, however, be an easy one.

Historically, the OFPP Administrator often has found himself or herself to be in the eye of a hurricane, trying to resolve the conflicting demands of the major procuring agencies: The Department of Defense, NASA, and the General Services Administration. An effective Administrator, in keeping with the purpose of the Office, must also provide Congress with impartial advice on procurement legislation. In short, balancing these often competing needs is not an easy job.

Committee rules require that the committee conduct an inquiry into a nominee's experience, qualifications, suitability, and integrity to serve in the position for which he or she has been nominated.

I will take the time to recount very briefly for the record the steps that the committee has taken on this nomination prior to our hearing today.

First, Mr. Bedell has been asked for and has supplied financial statements and detailed information on his education, employment, and professional achievements. He has also responded in writing to a number of prehearing questions.

Copies of the biographical information and the prehearing question responses will be placed in the record as a part of this hearing and are available upon request.[1] The financial statements are available for inspection by the public in the committee office.

The committee reviewed the nominee's biographical and financial information as well as reports submitted by the Office of Government Ethics, the General Counsel at OMB, and the FBI.

I would like to thank Mr. Bedell for his cooperation with both the members of the committee and the staff.

Mr. Bedell, our committee rules require that all nominees give their testimony under oath. Would you come forward, please, and raise your right hand? Do you solemnly swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Mr. BEDELL. Yes, I do.

Senator COHEN. Senator Warner, who was going to introduce you, is at another hearing this morning. He has a very praiseworthy statement of introduction. It will be included in the record.

[The prepared statement of Senator Warner follows:]

PREPARED STATEMENT OF SENATOR WARNER

Mr. Chairman, members of the committee, I welcome the opportunity to come before you this morning.

It is my privilege to introduce Mr. Robert P. Bedell, President Reagan's nominee to be Administrator of the Office of Federal Procurement Policy at the Office of Management and Budget [OMB].

Mr. Bedell comes to us with nearly 20 years' experience in Federal Government service.

He began his career in 1968 with the U.S. Judge Advocate General Corps.

For a decade, beginning in 1973, he then worked as deputy general counsel for the Office of Management and Budget.

At present, and for the last three years, Bob Bedell has served as Deputy Administrator of OMB's Office of Information and Regulatory Affairs.

Of particular interest to the distinguished ranking member of the committee, Senator Eagleton, should be that Mr. Bedell attended secondary school in Webster Groves, MO and received his juris doctor degree from the Washington University School of Law at St. Louis.

I may now proudly claim Bob Bedell as a constituent, however, as he resides with his wife, Mary, and four children in Springfield, VA.

It would be difficult, indeed, to find an individual more qualified than Mr. Bedell to become Administrator of the Office of Federal Procurement Policy.

He has trial experience with the Army in contract litigation, has represented the executive branch with Congress in several procurement matters, and has acted as counsel for Federal procurement policy with all previous administrators.

Bob Bedell has been honored for the outstanding quality of his service in all levels of Government.

To cite just a few examples, he received commendations from the Army in 1970 and 1971, OMB's Exceptional Service Award in 1979, and for the current year, 1986, he is a recipient of the Presidential Rank Award as meritorious executive, one of the senior executive service's highest forms of recognition.

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[1] See pp. 17 and 22.

It always gives me satisfaction to see that the administration is promoting from within.

Mr. Bedell is a natural choice for a difficult post, and it makes good sense as well as good policy to expeditiously report his nomination for full Senate confirmation.

OMB's Office of Federal Procurement Policy has been without a confirmed administrator since January of 1985, and it is hoped that this nomination can assist in revitalizing the good efforts of that office.

Congress created the Office of Federal Procurement Policy in 1974 to serve as a highly professional research and oversight body for Federal acquisition procedure.

In recent years, Congress has looked to the office for guidance in such areas as year-end spending and the costs associated with DOD spare parts.

If we are to continue to benefit from this valuable resource, we can be of greatest assistance at this time by sending them a fully confirmed administrator.

Robert Bedell is the man for the job, and I encourage all of the distinguished members of the committee to lend him your support.

Senator COHEN. We could proceed with questions, unless you have a statement you would like to make.

TESTIMONY OF ROBERT P. BEDELL, TO BE ADMINISTRATOR, OFFICE OF FEDERAL PROCUREMENT POLICY

Mr. BEDELL. Not a formal one, sir, but I would like to say that it is a pleasure to be here this morning, and especially before this committee. I will say the obvious: That I am very, very honored and proud to be the President's nominee for the Office of Federal Procurement Policy.

Senator COHEN. Should I take congressional or judicial notice that this is your family behind you?

Mr. BEDELL. Let me introduce them. It will take just a second. This is my wife Connie; my daughters Samantha, Michele, Diana, and my son Anthony.

Senator COHEN. All right. I mentioned before that Senator Chiles and I had shed blood in seeking the reauthorization of OFPP. I do not intend to shed any blood this morning, I might add, for the benefit of your family. [Laughter.]

Mr. Bedell, is there anything in your background which might present a conflict of interest to the Office?

Mr. BEDELL. No, sir, I am not aware of any.

Senator COHEN. Do you know of any reason, personal or otherwise, that might prevent you from fully and honorably discharging the duties of the Office of Federal Procurement Policy?

Mr. BEDELL. No, sir.

Senator COHEN. Do you agree without reservation to respond to any reasonable summons to testify before any duly constituted committee of the Congress if you are confirmed?

Mr. BEDELL. Yes, sir.

Senator COHEN. Those are the standard questions I have to ask anyone who is about to be confirmed, and I would like to proceed with questions about the Office itself. As I mentioned in my opening statement, the Office has been without an Administrator for nearly 2 years now. During that period of time, the agency has been understaffed and, as a result, relatively unproductive.

What steps do you intend to take if you are confirmed as Administrator, and I fully expect that you will be, to get the Office back on its feet?

Mr. BEDELL. Well, the first thing is to fill the need that you just identified: The Office is substantially under strength at the

moment. What I intend to do is to get it up to speed as quickly as I possibly can with the caliber and the quality of the individuals that I have worked with at OMB for these last 13 years that I have been a part of OMB.

I also want to make sure that the people we bring on are the type of people who are respected and work well with the other entities and officials within the Office of Management and Budget. My first priority would be to bring the Office back up to speed and to seek to integrate it with the other activities and functions of OMB.

Senator COHEN. You mentioned the word "integrated" in your response to prehearing questions with OMB. How would you achieve that integration, and how do you achieve it without compromising the independence of the Office itself?

Mr. BEDELL. Well, as you know—as you know especially—the Office of Management and Budget has a number of very critical control-type, management-type activities to perform on behalf of the President and for the executive branch. Legislative clearance is one of them; developing the administration positions in response to congressional inquiries as to the Executive's view on legislation is critical; reviewing all such legislation; reviewing budget proposals by the departments and agencies; clearing and reviewing agency regulations and agency paperwork are all activities of the Office of Management and Budget.

One of the keys to the Office of Management and Budget's being able to successfully operate is utilizing all of those different functions and bringing the combined expertise that the Office has to each one of them. What I feel, from watching OFPP in the past, is that it hasn't been used by the Office—OMB—for its expertise as much as I think it could have, and it hasn't used the authorities and functions and relationships of the Office in carrying out its several responsibilities.

That's what I meant by integrating. The Office of Federal Procurement Policy was also intended to be a resource, not only for the Executive Office and the President, but the Congress. I have had a long and, for me, enjoyable relationship dealing with this committee. I hope to be able to establish that resource base to provide the kind of expertise and analysis that this committee would find useful, as well as the Executive Office of the President.

Senator COHEN. You have been with OMB, what, now, since 1973?

Mr. BEDELL. Yes, sir.

Senator COHEN. First as Deputy General Counsel and then as Deputy Director of the Office of Information and Regulatory Affairs. I suspect you, therefore, have a pretty good sensitivity about how the OMB operates. You probably agree with me that that Office, OFPP, could not function without the strong support of the OMB Director himself.

Mr. BEDELL. Yes, sir.

Senator COHEN. The OFPP's status has varied in the view of the Director over the years from being a "favorite son" to "unwanted child," to name just a few.

What is your perception of Mr. Miller's perception of OFPP? What is going to be his role with respect to the Office?

Mr. BEDELL. I know that the Director has a very, very strong interest in the management side of OMB. As you know, he was the first Administrator of the Office of Information and Regulatory Affairs. That is the Office for which I am presently the Deputy Administrator.

So Jim fully appreciated the different offices and functions of the Office of Management and Budget. When he returned to OMB from the Federal Trade Commission, he learned during his appearances up here and his meeting with you and others, and you apparently impressed him with the need to get the OFPP to be a part of the functions and responsibilities of the Office of Management and Budget. He returned after his confirmation with that firmly in his mind.

The length of time that it took for a nomination for OFPP to be made reflects as much Jim's desire to make sure that he had the person that he wanted in the Office as much as anything else, and you, of course, are familiar with the length of time that this took.

Senator COHEN. Has it been settled in OMB that OFPP is here to stay, or is there still an attempt made to abolish it and consolidate it with other functions?

Mr. BEDELL. There is no effort to abolish or consolidate it, and I would not have told the Director that I was interested in becoming the Administrator of the Office of Federal Procurement Policy, if he had told me he had any of those ideas.

Senator COHEN. So you would expect to support the reauthorization of the Office next year?

Mr. BEDELL. Yes, sir, I do. And I think we have got a tough task because we are going to be judged by what has occurred in the recent past with regard to OFPP, and I'm sure we will have reports and analyses to indicate that it hasn't been very much in the past few years.

Senator COHEN. Who is going to make that judgment?

Mr. BEDELL. Well, the Congress is going to make that judgment, and I think one of the things that I would like to do in the intervening months, if I can somehow get confirmed to the Office soon, is to put together an agenda in cooperation with this committee and the House Government Operations Committee and others that are interested, as well as the Executive Office of the President and the other key agencies, of the specific set of tasks and agenda items that the Office can undertake quickly and be ready to move forward with early in the spring.

For those items that will require legislative action, I would hope to have a proposal that we could submit for your consideration sometime in the early spring.

Senator COHEN. One of OFPP's major accomplishments, in my judgment, has been the establishment of the Federal Acquisition Regulations, the so-called FAR. Some of the difficulties with that, however, as it pertains to the Department of Defense, is that there are supplemental regulations that sometimes even exceed the FAR itself. I would like to have your opinion for the record, at least, in terms of now that we have a new "acquisition Czar" within DOD, how do you intend to contend with that?

Mr. BEDELL. Well, I have just taken a preliminary look at some of the statistics with regard to the FAR and what the collection of

procurement regulations were prior to the FAR's combining as many of them as it could into one, and it was a pretty substantial effort and a pretty successful one, but in the recent past, we have seen, just as you have said, the growth of supplemental regulations, and I'm not even confident we have a full understanding of the extent of those.

I think this growth can totally undercut what has been achieved with the FAR. If all we have done is to have created another layer of regulations here, then the effort may well be counterproductive.

So I would want to look very, very carefully at the growth of those supplemental regulations. As you know, the Office of Federal Procurement Policy has the authority to veto, to literally rescind regulations which are inconsistent with the purposes and the policies that the act and the policies that the Office of Management and Budget issue and if necessary, I would look to that as a means of curbing the growth of those supplementals.

Senator COHEN. Do you have the staff or the resources to actually conduct the kind of review in dealing with the defense acquisition policies so as to exercise a veto over the new "acquisition Czar" for within DOD? Do you have that kind of staff?

Mr. BEDELL. Well, as you noted, the Office does not have that kind of staff right now. But I would think that we would be able to get up to the authorized strength level, and I think it is about 25, and with the right caliber of people, I think that that can be a credible threat. I think what we ought to do is to seek to work with the Department of Defense.

They have a very keen interest in this and it should be along the same lines as our interest, in making sure that their policies are not undercut by supplementals.

Senator COHEN. I might respectfully suggest that the Department of Defense has an interest in seeing to it that it protects its own power and procurement practices.

Mr. BEDELL. I have heard that, too, sir, yes. [Laughter.]

Senator COHEN. I think you will know it and experience it. I am not talking about the Navy having its own set comparing it with the Army; I am talking about the whole group of services who will function differently.

Mr. BEDELL. Excuse me. I think the reforms—the structural reforms—that the Congress has put into place just recently in response to the Packard Commission recommendations offer great promise, but I think it makes it critical that the Office of Federal Procurement Policy, which has its Governmentwide policies, work very, very closely with the new acquisition sector in the Department of Defense.

They should be looked to first for major changes and reforms in their procurement system, but it has to be done in the context of Governmentwide procurement policy.

Senator COHEN. You have regulatory authority—not yet—the Office itself has regulatory authority, a very controversial issue that was discussed at some length in this committee and on the floor. That regulatory authority has been rarely used.

If confirmed, do you intend to use these regulatory powers?

Mr. BEDELL. Not as a first instinct. I would seek to work with the various departments and agencies to discuss fully the differing

views on what the appropriate policies should be. I think that the regulatory veto authority that the Office has ought to be used, frankly, as a last resort; I don't think it ought to be the first reaction, the first instinct at OFPP.

Senator COHEN. Let me give you a series of hypotheticals in terms of whether you think that the regulatory authority ought to be used. Suppose a bill is enacted and the Defense and Civilian Regulatory Councils can't agree on the implementing regulations. Would you issue a regulation to resolve the dispute?

Mr. BEDELL. That is one of the authorities that the Office has. Again, I would like to meet with and find out why they can't come together, what the issues are, and if necessary——

Senator COHEN. Assume for the moment they can't come together and are still in dispute.

Mr. BEDELL. Then I would be inclined to use it.

Senator COHEN. A bill is enacted and the regulatory councils don't issue implementing regulations in a timely fashion.

Mr. BEDELL. Again, with all the proper coordination, if that were the case ultimately, I would be inclined to use the regulations to resolve that.

Senator COHEN. The regulations which should be implemented on a Governmentwide basis in the FAR are, instead, issued as supplemental regulations by each of the agencies.

Mr. BEDELL. I would be most inclined to address that problem by issuing a central and single regulation.

Senator COHEN. An agency supplemental regulation is inconsistent with or duplicative of the FAR policy.

Mr. BEDELL. There may even be no choice in that situation. The OFPP Administrator may be required to act in order to resolve that.

Senator COHEN. An OFPP policy directive, which is required by law to be implemented in the FAR, is ignored by the regulatory councils.

Mr. BEDELL. Again, that is one of the authorities of the Office, and if we thought enough to issue it in the first place, we ought to back it up.

Senator COHEN. I have some more questions, but I would yield to Senator Durenberger for his statement or questions.

Senator DURENBERGER. Thank you, Mr. Chairman. Bob, I just came to see what you looked like and got a treat and saw the whole family here, and it is a delight. We had a little mix-up last week, which I had forgotten but the husband of an associate of Bob at OMB reminded me that we had actually missed our appointment.

Mr. BEDELL. That was my fault, and I apologize for that.

Senator DURENBERGER. No, I said, "He probably won't believe when you tell him what a relief it is when something gets off the schedule and we can go do something else."

Senator COHEN. Which is not to say that the Senator was relieved that he didn't meet with you. [Laughter.]

Mr. BEDELL. I didn't think so.

Senator DURENBERGER. I am curious. I have known you by reputation, and on occasion, I guess, we have disagreed. I have always felt kind of badly that I haven't had a chance to actually know

your justification for suggesting some of the things you have suggested. I'm also sure there were some circumstances in which you weren't responsible.

But your friends and associates are impressed by you, and I have a question which relates to the subject matter on which Senator Cohen has been quizzing you.

Let me put it this way. If this were 6 years ago, I could see you being very excited about this job. What is it that excites you about this particular position now? A number of other people could have gone in and done this job, but none of them as well as you potentially can. So what is it about this job, given that you serve at the pleasure of the President, and there are only 2 years of pleasure left in Ronald Reagan's term, that has interested you enough to make a commitment to this job?

Mr. BEDELL. Well, many, many years ago, back just prior to coming to the Office of Management and Budget, I found myself in the Pentagon, and I was defending the Army in its contract litigation, and I did that for a period of about 2 years. I worked very closely with the procurement system; I met a lot of its people; I solved a lot of its problems. There is the enormous complexity, at least from a litigator's standpoint, and I developed an attachment to the procurement process.

When I came to OMB, I worked on the Office of Federal Procurement Policy Act of 1974, and its amendments, again, in 1979. I have been a counselor to, certainly a commenter on—from my deputy general counsel position—almost everything that OFPP has done over the years.

I have an interest, therefore, in the procurement process. It is one I can't explain to you, either, as to why I have it.

Second, I would not have taken this job at this point in time for this last 2 years of the President's second term but for Jim Miller's insistence, his arm twisting, if you will. And, I think that there are several reasons why Jim thinks much needs to be done and why he has a commitment to do it.

I think most of that stems from views and discussions with you, Senator Cohen, with Senator Chiles and others that he had when he went through his confirmation hearing himself last fall.

So Jim put the pressure on, and I respect Jim. I like him. I have known him for a long time. We have the kind of relationship that I think can do some things at OFPP that I wondered whether the Office could do for the last dozen years or so, and I'm excited about taking a try at that and seeing if we can do some good.

We know, especially from reading the recent Packard Commission report, that the problems are systematic; that they haven't been successfully addressed in the past when we have known those problems are there. I don't have any reasons to believe that when we get to the end of the President's second term that I will have those problems in tow, but the week after my confirmation, if I am confirmed, I will be hard at work trying to do so. I may only be able to try to lay some of the seeds for further success in addressing those problems, but I wanted to try.

I have got to get started; the problems are there. I am excited about trying.

Senator DURENBERGER. But I assume, based on what I have been told about you and what you have just said about the arm twisting, that it isn't just a matter of putting some smart, loyal person in the job for 2 years. The idea is for you, the Director and the chairman of the subcommittee and others who are deeply concerned about this issue, that there are some doable things in the next 2 years—things which put your successor in a position he can't easily change.

In other words, it's possible that you could go into the job, and you could implement the LOFPP guidelines. And somebody else could come along and just "unimplement" them and put something else in. However, I presume that you are smart enough to figure out that there are certain things that you can get done in the next 2 years that will limit your successor's freedom of action.

Could you describe what those things are for us?

Mr. BEDELL. Well, as I indicated to Senator Cohen, I think one thing that we should do immediately is to set forth a specific agenda and I would want to do that in conjuction with the committee right away. As far as the general approaches that would follow, the Packard Commission called for something that I think has been needed for quite some time, and that is a single, uniform procurement statute written in the mid-1980's, reflecting the circumstances of today.

Our procurement statutes have been a patchwork emanating from different sources, for the past 30 or 40 years. Most of them were initially fleshed out in the 1950's. The changes that have been made have been more band-aid than they have been systematic cures.

The procurement commission in the mid-1970's called for a consolidation procurement statute. Again, the Packard Commission 10 years later calls for the same thing. In the interim, what we have done is to take the regulations emanating from those statutes and try to consolidate them as much as possible. Not much in the way of substantive change occurred, and not a whole lot could occur when you start from differing statutory requirements, dynamics and tensions.

Senator DURENBERGER. So that would be the major goal and objective.

One more question.

In a time context, can we expect the Cohen bill that does this to be discussed or at least referenced in the 1987 State of the Union Message or the 1988 State of the Union Message?

Mr. BEDELL. Well, I haven't seen a draft of either of those yet. [Laughter.] I would be interested in that, however. The State of the Union is often the way that the President can set forth his priorities and focus the attention of the Nation on specific initiatives.

If this is ready or any other procurement policies are ready and appropriate for such, I would certainly offer them for the White House's consideration.

Senator DURENBERGER. But is there something in the works right now for 1987?

Mr. BEDELL. There is an effort under way to draft a unified statute that is called for by the Packard Commission. The President implemented that either in an Executive order or he issued specific

instructions to have that done. I think it is being staffed right now, frankly. I don't know the details of it, but it is going to have my early, priority attention, if confirmed.

I think that it is critical to further advancing the refinement of the procurement procedures and processes.

Senator DURENBERGER. OK. Thank you very much.

Mr. BEDELL. Thank you, sir.

Senator DURENBERGER. I appreciate very much the opportunity to be able to vote for you. Bill, thank you.

Senator COHEN. Dave, just to follow up on that, the President has come up with a "simplified" tax system, and the Packard Commission has subsequently recommended a single "simplified" procurement statute.

Are you going to try to develop that?

Mr. BEDELL. I am going to try to develop the——

Senator COHEN. Because the present procurement status are a mess.

Mr. BEDELL. Yes, sir.

Senator COHEN. The one complaint we hear from contractors is that they have to deal with a different set of rules for every single agency, and there is just no consistency. This is a major problem. The Packard Commission has indicated a single simplified comprehensive procurement statute would go a long way toward solving this problem.

Mr. BEDELL. That is a major task, quite obviously. It hasn't been done despite the fact that people have called for its being done for many years now.

It must be frustrating to try to take those FAR's and get them to read the same. It is obviously a useful endeavor, but if you start from different statutory requirements in the first place, it has got to be a limited exercise, and then we see the supplementation of those FAR's really undercut the simplification and cost savings that they should have brought.

So I think at this point, we need to start with the statute. It will flush all kinds of issues, the very basic procurement issues, but I think that is what is required, and I think it is incumbent upon the executive branch and the OFPP, in particular, to put forward its best effort and its best thinking on these things and then be prepared to discuss them and defend them with this Congress and this committee, in particular, and the House Government Operations Committee. And that is what I want to do.

Senator COHEN. I asked you before about your prospective relationship with the new DOD "acquisition czar." What is the relationship, in your view, of the OFPP Administrator and the other agency procurement heads. Are you equals? Are you a superior? Are you first among equals? Are you an equal among equals, or are you subservient to the others? What is your perception of the role of the OFPP Administrator in relationship with those others?

Mr. BEDELL. Well, the Administrator of the Office of Federal Procurement Policy has Governmentwide procurement policy responsibilities and it is to be a policymaking and, to some extent, executing authority that functions within the Executive Office of the President. He, therefore, has Governmentwide responsibilities, and

in specific circumstances, requirements to implement those policies within the departments and the agencies.

Senator COHEN. Who has got the power?

Mr. BEDELL. Well, I think the President has the power to run the executive branch, including the Office of Federal Procurement Policy and the Department of Defense. I think, as he has indicated, he is committed to the execution of the Packard Commission recommendations.

What I propose to do is, if there is a difference between the Department of Defense's new acquisition executive and policies that I think the executive branch should be pursuing, to make sure that those are fully, thoroughly discussed within the executive branch and discussed here in Congress, as well.

Senator COHEN. But if you disagree with what the DOD "acquisition czar" is saying, that they want separate regulations for different reasons, would you then recommend to implement Governmentwide regulations?

Mr. BEDELL. Yes; but you know, regulatory authority——

Senator COHEN. I want to know who has got the club.

Mr. BEDELL. Well, having the club and exercising it, I think, are two different things. If you read the OFPP statute, the Administrator has substantial authority with regard to the actions that the Department of Defense takes. It can effectively countermand the procurement regulatory policies and regulations of the Department of Defense.

I, frankly, think that that authority ought to be used as a last resort. The Office should work as closely as we possibly can with that new acquisition executive and have the important issues in procurement discussed within the Executive Office.

Senator COHEN. Let me tell you one of the problems. We have just had a major reorganization of the Department of Defense. One of the primary concerns by a number of people, both on the Hill and off the Hill, former heads of the agencies, former Secretaries of Defense, former Chairmen of the Joint Chiefs and so forth, is that there is so much effort made to compromise, to reach some kind of unanimity of opinion, that you end up with the lowest common denominator position. That same tendency is prevalent within your policymaking process, as well. Getting the agencies together to agree on a policy typically ends up finding the lowest common denominator in order to reach a compromise.

Do you see that as a major problem for you?

Mr. BEDELL. It is a major problem. It is a major risk in running, frankly, any review type activity out of the Executive Office of the President.

You have to be careful that with a 25-man office that you don't get down to arm wrestling and the implementing details with a force that is substantially greater. At that same time, you just can't sit back and say, "Doesn't look good to me," and exercise some type of veto authority.

You have to work with them if you can, and if you cannot—and you will not on occasion—you have to be able to carry out your responsibilities under the act. And I don't have any reservations saying that.

Senator COHEN. You don't see your role as a that of a 200-pound gorilla.

Mr. BEDELL. That may be so when you talk about this 25-man staff compared to the Pentagon; that is quite a disproportionate relationship.

But for the fact that the 25-man office is located in OMB and the Executive Office of the President, and that I happen to know the Director of the Office of Management and Budget and that he has strong views in these matters, I wouldn't think I would have much of a chance.

Senator CHILES. Does that mean he does or does not?

Senator COHEN. I think he views himself as something much larger than that, with a very close relationship with a 1,000-pound gorilla.

Mr. BEDELL. That's a better answer than I gave.

Senator COHEN. You mentioned being responsive to the Congress. One of the major contentions raised in the past is that OFPP is a little bit too responsive to us. I recall the words of former Deputy Secretary of Defense Paul Thayer. He wrote to Mr. Meese, a few years back when we had the proposed reauthorization. He said,

> Certain aspects of the proposal just do not seem to be in line with how I believe Government agencies should be organized or operated. Proposed legislation requires that the head of the agency report policy matters directly to the Government Operations Committee of Congress. I do not believe we should support this direct reporting to Congress.

What do you think of that, either that statement or the requirement?

Mr. BEDELL. I don't see that requirement as troublesome at all. I don't think anyone at OFPP or OMB in the past has interpreted that requirement as saying that the confidential communications and every scrap of paper must immediately be mailed to the committees in Congress. Obviously, any kind of relationship involving important executive matters can be compromised, but that has not been OFPP's practice in the past, it has not been OMB's, and I would want to know on what basis that charge was made.

I don't see it as a problem at all.

Senator COHEN. Right now, you report directly to the Director of OMB. There are proposals which would have you report to one of two new Deputy Directors. Would you support that change?

Mr. BEDELL. I haven't studied the change, and frankly, I don't think it would affect the way that I work within the Office of Management and Budget very much at all.

Senator COHEN. Wouldn't it depend upon if you have some kind of layer in between you and your close friend at the top? Wouldn't that tend to possibly diffuse the strength of your convictions about your conduct with, perhaps, DOD or any other agency that might be in disagreement with you?

Mr. BEDELL. I really don't think so. The reason that I don't is that to have the Deputy Director onboard with major issues and major policy decisions, I think, is important to have a unified position and a well-understood position within the Office of Management and Budget.

Besides that, at least for our current Deputy Director, I would want his counsel on these things. I have always been able to work

very well with him, and I anticipate being able to do so in the future, and I want to know what his views are, and I want to make sure that he agreed with my views on a particular issue.

Senator COHEN. Thank you very much, Mr. Bedell.

I will yield now to Senator Chiles, who has really been in the forefront of trying to develop and strengthen the Office of Federal Procurement Policy.

OPENING STATEMENT OF SENATOR CHILES

Senator CHILES. Thank you very much, Mr. Chairman, and Mr. Bedell, we welcome you to the Committee on Governmental Affairs. This is not a new committee to you. We have seen a lot of you in the last 10 years in a range of issues like sunshine laws regulatory reform, paperwork, and information policy. You are appearing before us now in a new role. We welcome you and are delighted to see your family is here.

Mr. BEDELL. Thank you, sir.

Senator CHILES. If you will pardon me, I sort of look at you in wonder. I sit on the committee that has repeatedly reauthorized the Office of the Federal Procurement Policy, and has waited 2 years for the President to nominate a new Administrator. We were wondering whether that day would ever come.

As you know, I have criticized the administration for that neglect. I find it kind of hard to believe that they are genuine about tackling waste and scandals in Government contracting and, in particular, doing something in defense contracting, while permitting the opportunity of a strong Office of Federal Procurement Policy to languish.

It has been 2 years that the Office has been left out there in limbo. Jim Miller was up here a year ago for his nomination. He indicated that he didn't agree with neglect. He said he would see to it that the nominee to the Office would be forthcoming and the person selected would have his support to get the job done.

It took time, nearly a year, to get you up here, Mr. Bedell, but it does look like folks want to reverse that neglect and start doing what Congress wanted in the act. I wish you luck.

Those interests out there in the Federal agencies and elsewhere who do not want to see you succeed have had 2 years in which to dig in their heels. It is going to be hard work to get anything done, and it is also going to take a little bit of support. I know you can depend on the support of some of us in the Congress. We created and believe in the purpose of the Office of Federal Procurement Policy.

Behind the Procurement Commissions notion for a central policy manager was an understanding that important procurement reforms would need the support of both the legislative and the executive branch.

Government contracting is now a $190 billion arena. It covers the purchase of paper clips to major weapon systems. The Office of Federal Procurement Policy can be a very important catalyst in improving how we do those purchases.

I am familiar with the peer group pressure in OMB that tend to be anti-Congress. It goes from one Administration to the other, re-

gardless of what party is in. But you will have problems, I think, if you choose to ignore the partnership premise behind the Office of Federal Procurement Policy.

You are the fifth Administrator to be nominated by a President. You are the first to come from within the Executive Office of the President, so you are an insider, and not an outsider. You are experienced, and the paperwork shop has taught you how hot the kitchen can get. Even more, the record tells me the Director is going to support you in the Office. Those are certainly positive assets. You will need the support.

It may be, Mr. Bedell, that you are the last chance for the Office of Federal Procurement Policy to prove it can be a meaningful institution. I want you to know I hope you succeed, and I look forward to working with you on the agenda for the Office of Federal Procurement Policy.

Thank you, Mr. Chairman.

Senator COHEN. Thank you, Senator Chiles.

Senator CHILES. I congratulate you again on your victory for the folks there.

Senator COHEN. I was just thinking that your remarks, in terms of the administration, perhaps not being as sympathetic to Congress. I think historically, the administration does not regard Congress with a very high degree of admiration, and it is sort of a tenuous relationship, at best. But I must say the last few nights we have had an opportunity to see how the executive and legislative branches can work together to pass more significant legislation dealing with contractor fraud.

It was only through a very strong endorsement through OMB, the Justice Department, and others that we were able to present on the floor and pass legislation that Senator Chiles and I had worked on for about 6 years. It took 6 years to get the measure to the floor, and without the support of the administration, we would not have been able to keep our antifraud measure in the reconciliation package last Friday night.

So notwithstanding the historical competition between the executive and legislative branches when we do work together, I think we can do some positive things.

Senator CHILES. I do have a couple of questions, Mr. Chairman.

One of the original missions of the Office of Federal Procurement Policy was to bring about a single set of procurement regulations. After 10 years, I think what we have is getting worse, not better. What has evolved is a regulatory maze or a regulatory nightmare. Everyone knows this has many negative impacts on business being willing to participate in supplying the Government; small and minority businesses are particularly hit. To me, the basic problem remains that each department or each agency or each program wants their own regulations, no matter how similar they may be.

What are your thoughts on the subject, and what do you see as a strategy to bring out a more simple set of regulations?

Mr. BEDELL. You are quite correct in that the FAR——

Senator CHILES. Do you think you can work in tandem with the paperwork shop on this particular problem?

Mr. BEDELL. That is exactly what I have in mind. The direct imposition by the Department of Defense information, collection

burden, is 500 million hours annually. In other words, the Department of Defense requires, in its regulations, in its contracting procedures, that people who wish to do business with the Government spend 500 million hours every year to fill out paperwork.

This is just one part of the regulatory maze that you point to. That is an incredible amount. I don't know what the average contract hourly rate is for the Department of Defense, but it has got to be $30 or $40. That's a lot of money that we are paying for those 500 million hours. I would very much like to work—and would work—with the Office of Information and Regulatory Affairs on reviewing the paperwork proposals from the Department of Defense that are required to be cleared by the Office of Information and Regulatory Affairs.

The same is true for the regulatory activities of the Department of Defense. The Packard Commission described them in the same terms that you did and said they were a nightmare, a bizzare set of regulations.

It takes over a year to get simple changes made to those regulations. I have had some experience now for the last 3 years looking at agency regulations, analyzing them and criticizing them and trying to change them to make them better fit within the existing structures and better fit statutory intent. I would like to do the same—and intend to do the same—if confirmed here while at the Office of Federal Procurement Policy. I will be working with the Office of Information and Regulatory Affairs.

FAR, as Senator Cohen and I were discussing, is largely being undercut by supplemental regulations. OFPP has even more authority than my present office to address that concern, and if we cannot get cooperation from the agencies, then we are going to have to exercise that authority to make sure that they are not undercut.

Another priority has to be to try to consolidate the statutes, make a proposal and work, hopefully, in a partnership with the Congress, on developing a new single unified and simplified procurement statute. But that is going to take some time. What I hope to do is have a proposal relatively quickly so we can get to it at the beginning part of this next Congress.

Senator CHILES. OFPP comes up for reauthorization next year. In the last go-around, OMB came up and indicated that the Office of Federal Procurement Policy did not need regulatory authority.

Do you envision that position as changing next year, and can you tell me what your view is?

Mr. BEDELL. Well in my mind, the position has already changed. I don't have that view. I think that what we should do—hopefully, again, working as a partnership—is set forth an agenda of items that OFPP and its resources can undertake. When we arrive at that list of initiatives, whatever regulatory authority or additional authorities are needed in order to carry them out, I would not hesitate proposing them. I don't think we should propose regulatory authority unless we know that we need it, and we won't know that until we know what we are going to undertake.

That would be, along with the unified statutory proposal, my first activity.

Senator CHILES. One of the problems that we are and will be concerned about is a problem of prompt pay. It is a procurement issue. Senator Cohen has a bill, and I certainly invite you to work with that problem. Thank you, Mr. Chairman.

Senator COHEN. Again, Mr. Bedell, thank you very much. I appreciate very much your family being in attendance. I appreciate the fact that several members who might be shedding blood are not here today, but we hope that you will certainly carry out the kind of ideas that you talked about today, and you certainly have our support.

Mr. BEDELL. Thank you, Mr. Chairman.

Senator COHEN. The committee will stand adjourned.

[Whereupon, at 10:50 a.m., the committee was recessed, subject to the call of the Chair.]

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

A. BIOGRAPHICAL INFORMATION

1. **Name:** Robert Perlee Bedell

2. **Position to which nominated:** Administrator, Office of Federal Procurement Policy, Office of Management and Budget

3. **Date of nomination:** September 10, 1986

4. **Address:** Residence: 6001 Haverhill Court, Springfield, VA 22152; Office: Room 3236, NEOB, Washington, D.C. 20503

5. **Date and place of birth:** 5/9/43, Philadelphia, Pa.

6. **Marital status:** Married; Wife's Maiden Name, Mary Constance Carney

7. **Names and ages of children:** Anthony Bedell, 18; Michele Bedell, 14; Diana Bedell, 14; and Samatha Bedell, 10.

8. **Education:** Webster Groves High School, Webster Groves, Missouri, Sept. 1958 to June 1961, Diploma; Vanderbilt Univ., Nashville, Tennessee, Sept. 1961 to June 1965, B.A.; Washington Univ. School of Law, St. Louis, Missouri, Sept. 1965 to June 1968, J.D.

9. **Employment record:** September, 1968 thru June 1973, JAGC, U.S. Army, Law; June 1973 thru June 1983, Office of Management and Budget, Washington, D.C., Deputy General Counsel; June 1983 to Present, Office of Management and Budget, Washington, D.C., Deputy Administrator, Office of Information and Regulatory Affairs

10. **Government experience:** None, other than as listed above.

11. **Business relationships:** None.

12. **Memberships:** Current Memberships: Missouri Bar Association; Tournament Players Club at Avenel

13. **Political affiliations and activities:**
    (a) List all offices with a political party which you have held or any public office for which you have been a candidate. None.

    (b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years. None.

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of $50 or more for the past 10 years.

My wife and I have made contributions to the Republican Party of Virginia, to the National Republican Party and to Republican candidates for State and Federal Elections from Virginia for the last 10 years. The contributions have exceeded $250 annually, but never more than $1,000. Several gifts have been "in-kind" by my wife. The only contribution to an out-of-state candidate was to Fred Upton, candidate in the Republican primary in the 4th District in Michigan in 1986.

14. Honors and awards:

1. Presidential Rank Award, Meritorious Executive 1986;
2. SES Performance Bonus Award 1980; 1982; 1983; 1984; and 1985;
3. Recognized by the William A. Jump Foundation for "Noteworthy Service in Public Administration," 1980;
4. OMB Exceptional Service Award 1979;
5. OMB's nominee for the Arthur S. Flemming Award, 1979;
6. Meritorious Service Medal, United States Army, 1973;
7. Army Commendation Medals (1970, 1971)

15. Published speeches: Hamline Journal of Public Law and Policy, Volume 7, No. 1, Spring 1986, Reregulation and the Federal Experience; Yearbook of Procurement Articles, Volume 13, 1976, Government Contractors; and the Initial Steps of the Privacy Act

16. Speeches: I give many speeches, but I do not prepare written speeches.

17. Selection:
(a) Do you know why you were chosen for this nomination by the President?

I was recommended by the Director of the Office of Management and Budget.

(b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment?

I represented the Department of the Army in contract litigation for over 2 years as a member of the Army Chief Trial Attorney's Office; have represented the executive branch with Congress on several procurement matters; have worked with all Administrators of OFPP as counsel; and have worked with all components of OMB and the Executive Office of the President since 1973.

(c) Were any conditions, express or implied, attached to your nomination?

No.

(d) Have you made any specific commitments with respect to the basic policies and philosophy which you will follow in the position to which you are nominated? If so, please describe those commitments.

No.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate?

I have none.

2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government?

No.

3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization?

No.

4. Has anybody made a commitment to employ your services in any capacity after you leave government service?

No.

5. If confirmed, do you expect to serve your full term or until the next Presidential election, whichever is applicable?

Yes.

C. POTENTIAL CONFLICTS OF INTERESTS

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealing with business associates, clients or customers.

   None.

2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

   None.

3. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

   None.

4. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy.

   None, other than on behalf of the executive branch.

5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements.)

   By referring questions to OMB's General Counsel.

6. Do you agree to have written opinions provided to the Committee by the General Counsel of the agency to which you are nominated and by the Attorney General's office concerning potential conflicts of interest or any legal impediments to your serving in this position?

   Yes.

D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

   No.

2. Have you ever been investigated, arrested, charged or held by any Federal, State, or other law enforcement authority for violation of any Federal, State, county or municipal law, regulation or ordinance, other than a minor traffic offense? If so, provide details.

   None, to my knowledge.

3. Have you or any business of which you are or were an officer ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

   No.

4. Have you ever been convicted (including please of guilty or nolo contendere) of any criminal violation other than a minor traffic offense?

   No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

   None, other than the newspaper articles and material that I furnished with my background investigation forms.

PREHEARING QUESTIONS FOR ROBERT BEDELL

I. POTENTIAL CONFLICTS

1. Is there any issue currently under consideration by the Office of Federal Procurement Policy (OFPP) or which may come under consideration from which you may have to disqualify yourself?

I am not aware of any issue currently under consideration by the Office of Federal Procurement Policy (OFPP) or that may come under consideration by the Office for which I would have to disqualify myself. I have not had to disqualify myself on any issues in my present position as the Deputy Administrator of the Office of Information and Regulatory Affairs at the Office of Management and Budget which also has government-wide responsibilities, so I would not expect any conflicts at OFPP.

II. ROLE OF OFPP AND ITS ADMINISTRATOR

1. OFPP has been without a presidentially appointed Administrator for nearly two years now. The agency is in great need of a leader to move it forward. What is your view of the role of Administrator and what steps do you plan to take, if confirmed, to move the agency forward?

If confirmed as Administrator, there are several things that I think now that I would move quickly to do.

First, it has been my view for several years that OFPP has not integrated itself as effectively into the activities of the Office of Management and Budget and the Executive Office of the President as it could. In my view, OFPP should do this. On matters related to procurement policy, OFPP should be an effective participant in developing legislative positions, reviewing regulations, reducing paperwork, establishing budget proposals, reviewing agency testimony and testifying on legislative initiatives. Second, in order to do this, OFPP's now reduced contingent of professionals needs to be quickly brought up to strength with the individuals of the quality that OMB is able to attract and retain. Third, it is my view that OFPP needs to carefully select its priorities and objectives, in cooperation with Congress, so that it may concentrate its limited resources on the most important initiatives.

2. Procurement reform continues to be an area of extreme interest on Capitol Hill and many members look to the Office of Federal Procurement Policy for guidance. As Administrator, what would you see as your major priorities and goals?

If confirmed, my goals would include:

- to make OFPP an effective, important, and essential part of OMB and the Executive Office of the President.

- to staff the Office with high quality, dedicated professionals--traditional OMB professionals;

- to work with Congress on common legislative activities and to provide testimony on legislative proposals;

- to establish specific priorities and objectives for the Office with Congress and the executive branch; and

- to work with the Departments and Agencies to carry out OFPP's specific statutory responsibilities.

3. As you know, the establishment of a single system of government procurement regulations, known as the Federal Acquisition Regulation (FAR), was designed to consolidate all existing procurement regulations into one government-wide system, with only those supplemental regulations essential to meet agency-unique needs permitted to be issued by the individual agencies. Do you believe the FAR project was successful in consolidating what was once characterized as a "chaotic regulatory environment"? What further initiatives would you take, if any, to improve upon the existing FAR system?

I have not been actively involved with the consolidation of existing procurement regulations into the Federal Acquisition Regulation (FAR). It is an important project and it appears to have been a principal--if not the principal--activity of OFPP during most of OFPP's existence. I would like to understand the project better before formulating plans on what further steps OFPP should take in the project. At some future time, if confirmed as Administrator, I would like to present that evaluation to this Committee.

I do have some impressions concerning the FAR project. I think that the project initially was directed at some very real problems, especially the complexity of contracting with Federal agencies that use different or inconsistent procedures or regulations or that impose paperwork intensive contractual requirements. This complexity adds to government's cost of acquiring goods and services and tends to restrict competition to those willing and able to battle through these complex requirements. Having a single set of regulations instead of different set for each major procuring activity is obviously a good idea. However, the good idea and the consolidation can be

undercut substantially by supplemental regulations to implement the FARs. We need to see whether this has occurred and what controls and incentives are in place to ensure that supplementation does not undercut the purpose of the consolidation.

Furthermore, the consolidation of the existing procurement regulations into the FAR was intended to be exclusively a technical recodification. Little if any policy changes occurred; little if any paperwork was eliminated from the process of contracting with the government; and little if any efforts were devoted to simplifying the regulatory process. Whether these should be the next steps and whether the FAR should continue to be a dominant activity of OFPP should be made only after consideration of other possible priorities of the Office.

4. Some critics of the FAR system believe it lacks the leadership to operate effectively and efficiently. The original OFPP Policy Letter 80-5, which conceived the FAR system, contemplated that the OFPP would serve in this leadership capacity. The FAR critics believe, however, that Policy Letter 85-1 essentially removes OFPP from the process. Do you foresee the OFPP playing a more active role in the FAR system, for example, by setting priorities, ensuring that duplication or supplementation is minimized, or issuing regulations when the regulatory councils cannot agree or are not timely?

If further refinements in the FAR project are to be the dominant activity of OFPP, then I believe that OFPP should commit to do what is necessary to make those efforts successful. I have not studied OFPP Policy Letter 80-5, or compared it to Policy Letter 85-1. If confirmed, I would reassess the OFPP role in the FAR process and the policy letters after determining the whether further revision of the project should be a priority.

5. Reauthorization of the Office of Federal Procurement Policy will again be considered next year. One of the issues likely to Be revisited is the question of regulatory authority. As you know, the OFPP Act Amendments, P.L. 98-191, authorized the Administrator to issue regulations under certain circumstances. To the Committee's knowledge, this authority has rarely been exercised. Do you believe the OFPP needs regulatory authority to operate effectively? If so, do you believe the existing authority should be broadened or changed?

I agree. Regulatory authority for the Office of Federal Procurement Policy has not been important for the activities of the Office so far.

This does not mean, however, that the Office's existing authority should not be broaden or changed. I do not know now whether it should. It would seem to me that it should be broadened or changed only if it would be necessary to carry out specific

projects or activities of the Office. The first thing that I would do, if I were confirmed as Administrator, would be to establish those priorities and objectives of the Office. If changes in OFPP's authorities were needed in order to carry out these objectives, I would propose such changes.

6. The Committee is aware that OFPP sought to use its regulatory authority in the rewrite of the so-called "rule of two." Do you believe this is a proper use of OFPP's regulatory authority? Are you aware of the status of OFPP's action? What will you do on this "rule of two" issue if confirmed as Administrator?

I am not aware of the details of what OFPP has done with regard to the so-called "rule of two" or why it decided to do whatever it did. I have read some of the press accounts of the issue but I would need to study the issue fully before I ventured a judgment on it.

7. The enactment of the Competition in Contracting Act, P.L. 98-369, was one of the Committee's major achievements last Congress. Do you support the fundamental objective of this law to require "full and open" competition in government contracting? As Administrator, would you undertake efforts to ensure that this law is implemented to its fullest potential so that the benefits of competition may be realized?

Yes.

8. What steps, if any, do you see as necessary to upgrade the procurement workforce in both defense and civilian agencies?

It is of course, critical to have well-educated, competent and highly motivated procurement personnel at all levels in procurement activities. In my experience, this group was generally well trained, motivated, anxious to do a good job and committed to the objectives of the Federal Government. I would be interested in doing what I could, if confirmed as Administrator, to ensure an effective procurement workforce.

III. RELATIONS WITH CONGRESS

1. Do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted committee of the Congress if you are confirmed?

Yes.

2. Do you agree without reservation to reply to any reasonable request for information from any duly constituted committee of the Congress if you are confirmed?

Yes.